

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In the Matter of)	
)	
Digital Audio Broadcasting Systems)	
And Their Impact on the Terrestrial)	MM Docket No. 99-325
Radio Broadcast Service)	
)	

To: The Commission

COMMENTS OF INFINITY BROADCASTING CORPORATION

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CORPORATION**

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I. INTRODUCTION AND BACKGROUND

Infinity Broadcasting Corporation (“*Infinity*”), by its attorneys, hereby submits comments in response to the Further Notice of Proposed Rulemaking and Notice of Inquiry, FCC 04-99, issued by the Federal Communications Commission (“*FCC*” or “*Commission*”) on April 20, 2004 in MM Docket No. 99-325 (the “*NPRM*”). In the NPRM, the FCC requests comments on what rule changes are necessary to foster the conversion to digital audio broadcasting (“*DAB*”) utilizing iBiquity’s in-band, on-channel (“*IBOC*”) DAB system. Infinity believes the FCC’s primary goal should be to ensure that its rules regarding IBOC facilitate the most expeditious introduction and implementation of iBiquity’s IBOC DAB system, and that the FCC refrain from implementing unnecessary or burdensome regulations that may impede or deter in any respect broadcasters’ rapid deployment of IBOC DAB service.

Infinity is one of the largest radio broadcasting companies in the United States and has been firmly supportive of iBiquity’s IBOC system since the inception of DAB. Infinity’s radio stations serve diverse segments of the population, and offer a wide variety of programming

formats. Currently, six of Infinity's stations are broadcasting in hybrid IBOC DAB.¹

Infinity's conversion from analog to hybrid service has been a relatively simple process, and no serious difficulties in implementing the IBOC technology on Infinity's stations have been encountered. In general, the upgrades to hybrid digital service were accomplished with minimal disruptions to the stations' continuing analog service, and without material impact on the stations' personnel or finances. Infinity believes that the effort and expense associated with the implementation of hybrid digital operation has been well rewarded, as its engineers and station personnel have found that the audio quality of IBOC DAB, even at this initial stage, is demonstrably superior to analog service.

Infinity's KROQ-FM, Los Angeles, one of the first stations to begin broadcasting in hybrid IBOC mode, has already seen the potential for improved fidelity from DAB service. As a Class B FM station broadcasting with 4.3 kW from approximately 2,800' AMSL, multipath and susceptibility to inversion layer attenuation has always been a source of noticeable signal degradation, even within its primary contour. KROQ-FM's chief engineer has reported that the DAB signal seems virtually immune to those effects. As he stated, "the primary contour acts more like a blanket of flawless coverage," and that "the most objectionable symptom seems to be in the most extreme outlying areas where HD radio receivers switch to 'blend' mode, airing the analog signal – that's where we hear the evidence that proves how excellent the system is – we're forced to listen to 'old-fashioned' FM!"

Infinity looks forward to comprehensive implementation of this vibrant new technology. Wide-scale implementation of IBOC DAB will clearly serve the public interest, and promises to

¹ KBKS (FM), Seattle; KCBS-AM, San Francisco; KROQ-FM, Los Angeles; WBZ (AM), Boston; WNEW(FM), New York; and WUSN(FM), Chicago. It should be noted that Infinity, along with certain other broadcast entities, has an equity interest in iBiquity Digital Corporation.

add new excitement to the terrestrial broadcasting industry, which continues to face competitive challenges from newly evolving high fidelity technologies such as satellite-delivered digital radio, cable-delivered radio, MP3s, and other digitized sources of music, information, and entertainment. Infinity respectfully urges the Commission to refrain from establishing unnecessary regulatory hurdles that will provide disincentives to broadcasters to introduce IBOC technology on their stations. The public will be prepared to purchase IBOC receivers and embrace this new service only after widespread implementation and availability of IBOC DAB signals, and the Commission should enact regulations which have the effect of expediting, rather than impeding, the expansion of IBOC DAB service. In doing so, however, the Commission should be cognizant of the differing situations of various broadcasters, and should therefore allow market forces and broadcaster discretion to play a dominant role in determining the pace and extent to which individual broadcasters convert their stations to DAB. As the FCC has correctly noted, “a flexible DAB service policy would likely increase the ability of broadcasters to compete in an increasingly competitive marketplace, and would allow them to serve the public with new and innovative services.” NPRM at ¶ 18. The Commission has also said that such “flexibility could also allow for a more rapid conversion to digital radio.” *Id.* Therefore, Infinity endorses the Commission’s conclusion that “a flexible service policy is in the public interest.”

Id.

II. THE COMMISSION SHOULD ALLOW MARKET FORCES TO DETERMINE THE PACE OF CONVERSION TO ALL-DIGITAL OPERATION.

In order to encourage the marketplace to effectuate the conversion to digital operation as quickly and efficiently as possible, Infinity submits that the Commission should finalize its IBOC rules expeditiously in order to dispel any existing uncertainties regarding the final IBOC regulatory scheme. Regulatory uncertainty not only acts as a disincentive to those broadcasters

who have begun the conversion to digital radio service, but also is a deterrent to those broadcasters who have yet to decide whether to convert their existing analog service to DAB. Infinity strongly believes that the Commission should allow the marketplace, free from excessive regulation, to set the pace of the conversion from analog to hybrid service, and eventually to all-digital radio service. To that end, Infinity vigorously supports the Commission's statement that it "intends to rely on the marketplace to the greatest extent feasible" in implementing DAB service. NPRM at ¶ 17.

Infinity notes that the FCC has set a schedule for the conversion to digital television. While a mandatory conversion schedule in that instance may have been appropriate in light of the fact that new spectrum was allocated for digital television signals with a contemplated ultimate recovery of the related analog spectrum to be utilized by other non-television services, one of the outstanding features of IBOC service as developed by iBiquity is that no additional spectrum is required to implement DAB. As such, there is no need for the FCC to set a mandatory date for DAB conversion because no abandoned spectrum will be recovered. Therefore, Infinity respectfully encourages the Commission to allow broadcasters to determine the pace at which DAB service is implemented on their respective stations.

III. THE COMMISSION SHOULD NOT MANDATE LEVELS OF HIGH DEFINITION DIGITAL AUDIO SERVICE.

Infinity cautions against mandated levels of high definition digital audio service. Competition in the marketplace naturally drives radio stations to compete for additional listeners, thus providing them a natural incentive to introduce high definition audio service in instances where it would be appropriate and responsive to listener demands. However, high definition service may not be an imperative for all radio station formats. Infinity's own experience has shown that the increased quality of digital radio service in some news and talk formats is not as

desirable as it is for music-oriented stations. Indeed, for some stations, it may be more appropriate to forego higher definition digital audio service so that they are also able to provide additional data services that would better serve their listeners.

Further, mandatory levels of high definition audio service are likely unnecessary as IBOC broadcasters will be naturally driven to achieve the highest quality audio service for music programming in order to compete with other high definition audio providers such as satellite digital radio, cable-delivered radio, CDs and MP3s.

IV. THE COMMISSION SHOULD ADOPT RULES THAT FREELY PERMIT DIGITAL AUDIO MULTICASTING.

Infinity believes that broadcasters should not be subject to unnecessary constraints in exploring and experimenting with the variety of services and uses that IBOC technology may engender. To that end, Infinity agrees with the preliminary conclusion reached by the Commission that it should adopt DAB service rules that encourage more audio streams.

As the Commission recognizes in the NPRM, multicasting offers broadcasters the opportunity to provide additional programming targeted towards niche groups who otherwise might not have a media outlet to directly address their particular issues of concern. NRPM at ¶ 20. Infinity agrees with the FCC that by adopting “DAB service rules that encourage more audio streams” program diversity will be promoted. *Id.*

Infinity believes that because the conversion process is so new and the possibilities of multicasting uses remain largely unexplored, the Commission should avoid burdensome regulations that would constrain or impede the development of a variety of services designed to further the public interest, and instead should encourage wide development and experimentation with this new technology.

Further, Infinity notes that by allowing stations significant flexibility in multicasting and

datacasting, addressed *infra*, stations will be better prepared to fulfill one of their most important community functions – providing critical information regarding emergencies and other events of local and regional interest.

V. THE COMMISSION SHOULD AVOID UNNECESSARILY BURDENSOME RULES ON DATACASTING.

Infinity urges the Commission to avoid excessive regulation of datacasting services, thus permitting radio stations to have the greatest possible range of opportunity to develop a panoply of services. As such services are just being introduced, IBOC broadcasters should be encouraged and allowed to experiment with a wide variety of datacasting services allowing the marketplace to determine which specific datacasting services best meet the needs of the public. The Commission should avoid excessive and unnecessary regulations that may stifle innovative and novel applications made available by this new technology. Instead, the Commission should adopt a flexible regulatory scheme to allow broadcasters to meet marketplace needs as this technology is introduced.

The Commission should not impose regulatory fees on such datacasting services. These services are simply an upgrade to existing subsidiary communications authorization (“SCA”) based services that have never been subject to such fees. As noted, unlike the approach to digital television, no additional spectrum is being allocated for digital radio. Consequently, fees are not justified for the digital radio service conversion, and would simply deter the development of new services.

VI. THE COMMISSION SHOULD ADOPT RULES THAT FREELY PERMIT SUBSCRIPTION BASED SERVICES.

Digital radio broadcasters should be free to develop and market subscription-based services if they determine that they would best serve the marketplace. Niche services that serve narrow listener groups and that would not be economically viable on a wide scale basis could be

offered. However, Infinity does not believe that such subscription services should be subject to an additional fee, as such fees will only deter development of these new services.

VII. THE COMMISSION SHOULD NOT ASSIGN SEPARATE CALL SIGNS FOR SEPARATE AUDIO STREAMS.

Infinity submits that separate call signs should not be required for separate audio streams. Instead, call signs should continue to be issued to identify individually licensed stations. Stations will almost necessarily find it necessary to identify their various subservices for marketing purposes, but Commission-assigned call signs are not necessary since call signs are already assigned to identify the full spectrum used by the station.

By way of analogy, the Commission currently does not issue separate call signs for existing SCA based services. As any datacasting or multicasting services offered by digital radio stations will be an upgrade to such SCA services, separate call sign identifiers will not be necessary.

VIII. THE COMMISSION SHOULD PERMANENTLY AUTHORIZE SEPARATE ANTENNAS FOR FM BROADCASTERS.

As the NPRM noted, the Media Bureau has previously sought comments on the findings of the National Association of Broadcasters (“NAB”) set forth in a report of the NAB-sponsored *ad hoc* technical group submitted to the Commission in July 2003.² Infinity submitted comments regarding that Report,³ which it incorporates herein, and hereby provides further comments regarding the flexibility the Commission should offer broadcasters in their antenna configurations. Moreover, the guidelines developed by iBiquity and the NAB regarding the use of separate antennas were designed to ensure that any interference created would be equal to, or

² NPRM at ¶ 52.

³ *Comments*, Infinity Broadcasting Corporation, MM Docket No. 99-325, January 7, 2004.

less than, any interference that would result from the use of a single antenna.

Infinity supports the permanent authorization of separate antennas for FM broadcasters which should not be predicated upon prior Commission approval whether through Special Temporary Authority or otherwise. Such separate antennas provide broadcasters a lower cost option for the conversion to digital radio and increase operational flexibility.

In order to speed the conversion process, the Commission should delegate authority to the Media Bureau to authorize future digital radio innovations. As digital radio service continues to expand, there are likely to be several new, as yet unimagined, innovations that will dramatically expand and improve the service. It is important that such innovations receive any necessary authorization as expeditiously as possible in order to promote their availability to the public.

Infinity also endorses the FCC's proposal for a presumption that antenna changes may be made so long as such changes are coordinated with adjacent stations. Such a presumption will also allow for the orderly conversion to digital radio service as quickly as possible while reducing any issues that might develop due to such adjacent stations.

IX. THE COMMISSION SHOULD AVOID ADDITIONAL LOCAL PROGRAMMING REQUIREMENTS ON IBOC SERVICE.

Infinity discourages the Commission from adopting unnecessary local origination programming mandates on IBOC services. The conversion to DAB is in its infancy and the Commission should exercise great restraint in creating any additional regulatory burdens that might delay or deter this technological upgrade. While the goals of local origination programming requirements may be laudable, they are unnecessary in radio, which provides abundant local service in a variety of ways.

For example, Infinity was one of many parties that provided comments in response to the May 5, 2004 Public Notice issued by the FCC's Localism Task Force. As part of its submission,

Infinity included a copy of a report entitled “Localism and Independence at Infinity Radio Stations: The Many Ways We Serve Our Communities.” That report provided extensive evidence of the involvement of Infinity’s radio stations in their local communities. That report documents the various ways in which Infinity’s radio stations have demonstrated their commitment to localism and independence every day by supporting local artists and community activities, sponsoring and conducting numerous charitable drives, providing programming that is responsive to the needs of their communities, ensuring up to date and complete coverage of local emergencies, and keeping the lines of communication open to their listeners. Infinity envisions using additional digital capability to further expand and support such local services to its listeners.

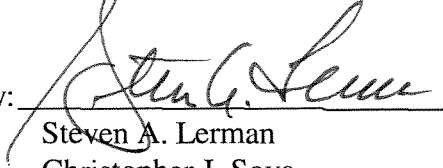
By its very nature, radio must constantly monitor and respond to local interests in order to compete with the numerous other media outlets vying for a limited amount of consumer attention. As a result, Infinity strongly urges the Commission to avoid additional mandatory requirements that could impair the conversion to DAB in order to further goals that radio stations are already fulfilling.

X. CONCLUSION.

In conclusion, Infinity respectfully requests that the Commission carefully consider any actions it may take regarding the conversion of radio stations from analog to digital broadcasting. Each such action should be scrutinized and designed to quickly establish a clear set of regulatory rules that will allow the conversion to proceed as demanded by the marketplace without creating any disincentives or deterrents to radio stations introducing this new technology.

Respectfully submitted,

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